

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 CHRISTINE A. RHEE
Deputy Attorney General
4 State Bar No. 295656
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9455
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **PHYSICIAN ASSISTANT BOARD**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 950-2020-002790

14 **SUNG DON LEE, P.A.**
15 **867 S. Tustin St.**
Irvine, CA 92620

ACCUSATION

16 **Physician Assistant License No. PA 55078,**

17 Respondent.

18
19
20 **PARTIES**

21 1. Rozana Khan (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

23 2. On or about October 20, 2017, the Physician Assistant Board issued Physician
24 Assistant License No. PA 55078 to Sung Don Lee, P.A. (Respondent). Physician Assistant
25 License No. PA 55078 was in full force and effect at all times relevant to the charges brought
26 herein and will expire on December 31, 2022, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physician Assistant Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3527 of the Code states, in pertinent part:

(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a PA license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board.

(b) The board may order the denial of an application for, or the suspension or revocation of, or the imposition of probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

...

(d) The board may order the licensee to pay the costs of monitoring the probationary conditions imposed on the license.

...

5. Section 3528 of the Code states, in pertinent part:

Any proceedings involving the denial, suspension, or revocation of the application for licensure or the license of a PA or the application for approval or the approval of an approved program under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

6. Section 2227 of the Code states, in pertinent part:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, in accordance with the provision of this chapter:

(1) Have is or her license revoked upon order of the board;

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board;

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1 (4) Be publicly reprimanded by the board. The public reprimand may include
2 a requirement that the licensee complete relevant education courses approved by the
board.

3 (5) Have any other action taken in relation to discipline as part of probation, as
4 the board or an administrative law judge may deem proper.

5 ...

6 7. Section 2234 of the Code states, in pertinent part:

7 The board shall take action against any licensee who is charged with
8 unprofessional conduct. In addition to other provisions of this article, unprofessional
conduct includes, but is not limited to, the following:

9 (a) Violating or attempting to violate, directly or indirectly, assisting in or
10 abetting the violation of, or conspiring to violate any provision of this chapter.

11 ...

12 8. Unprofessional conduct under Section 2234 of the Code is conduct which breaches
13 the rules or ethical code of the medical profession, or conduct unbecoming to a member in good
14 standing of the medical profession, and which demonstrates an unfitness to practice medicine.
15 (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

16 9. California Code of Regulations, title 16, section 1399.521 states, in pertinent part:

17 In addition to the grounds set forth in section 3527, subdivision (a), of the
18 Code, the board may deny, issue subject to terms and conditions, suspend, revoke or
place on probation a physician assistant for the following causes:

19 (a) Any violation of the State Medical Practice Act which would constitute
20 unprofessional conduct for a physician and surgeon.

21 ...

22 10. California Code of Regulations, title 16, section 1399.525, states, in pertinent part:

23 (a) For the purposes of the denial, suspension or revocation of a license
24 pursuant to division 1.5 (commencing with section 475) of the code, a crime or act
25 shall be considered to be substantially related to the qualifications, functions or duties
26 of a person holding a license under the Physician Assistant Practice Act if to a
substantial degree it evidences present or potential unfitness of a person holding such
a license to perform the functions authorized by the license in a manner consistent
with the public health, safety or welfare.

27 ...

28 (c) For purposes of subdivision (a), substantially related crimes, professional
misconduct, or acts shall include, but are not limited to, the following:

(1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Medical Practice Act.

(2) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physician Assistant Practice Act or other state or federal laws governing the practice of physician assistants.

...

COST RECOVERY

11. Section 125.3 of the Code states:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement

1 with the board to reimburse the board within that one-year period for the unpaid
2 costs.

3 (h) All costs recovered under this section shall be considered a reimbursement
4 for costs incurred and shall be deposited in the fund of the board recovering the costs
5 to be available upon appropriation by the Legislature.

6 (i) Nothing in this section shall preclude a board from including the recovery of
7 the costs of investigation and enforcement of a case in any stipulated settlement.

8 (j) This section does not apply to any board if a specific statutory provision in
9 that board's licensing act provides for recovery of costs in an administrative
10 disciplinary proceeding.

11 **CAUSE FOR DISCIPLINE**
12 **(Unprofessional Conduct)**

13 12. Respondent has subjected his Physician Assistant License No. PA 55078 to
14 disciplinary action under sections 3527, 2227, and 2234, of the Code, and section 1399.521 and
15 1399.525 of title 16 of the California Code of Regulations, in that he has engaged in conduct
16 which breaches the rules or ethical code of the medical profession and which demonstrates an
17 unfitness to practice medicine, as more particularly alleged hereinafter:

18 13. On or about March 13, 2020, Respondent got into a verbal argument with his spouse
19 at his home. Respondent got upset and struck his spouse in the head. Respondent's spouse called
20 the police.

21 14. On or about March 14, 2020, police officers arrested Respondent for felony domestic
22 violence.

23 15. On or about March 20, 2020, in Orange County Superior Court Case No.
24 20HM02946, a Complaint was filed, charging Respondent with one misdemeanor count of a
25 violation of Penal Code section 273.5, subdivision (a), domestic battery inflicting corporal injury.

26 16. On or about June 28, 2021, as part of a plea bargain, Respondent pled guilty to one
27 misdemeanor count of a violation of Penal Code section 415, subdivision (2), maliciously and
28 willfully disturbing another person by loud and unreasonable noise. The filed domestic battery
charge was dismissed. On or about the same day, Respondent was sentenced to informal
probation for two years and was ordered to attend a ten-week anger management course and pay
fines and fees.

17. On or about March 7, 2022, Respondent spoke to Board investigators about his arrest and conviction. Respondent told Board investigators that he got into a verbal argument with his wife and that he pushed her once or twice, causing her nose to bleed.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physician Assistant Board issue a decision:

1. Revoking or suspending Physician Assistant License No. PA 55078, issued to Respondent Sung Don Lee, P.A.;

2. Ordering Respondent Sung Don Lee, P.A., to pay the Physician Assistant Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and, if placed on probation, the costs of probation monitoring; and

3. Taking such other and further action as deemed necessary and proper.

DATED: April 12, 2022

Rozana Khan

ROZANA KHAN
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant

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